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## *Navy Spy Case Is to Be Prosecuted in Three Cities*

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Special to The New York Times

WASHINGTON, June 20 — The four Navy men accused of spying for the Soviet Union will be prosecuted in three cities, the Justice Department said today.

The decision was made after prosecutors determined that "there were three separate conspiracies," said a department spokesman, John Russell.

He would not expand on the comment, but criminal law specialists speculated that the department might have decided that three of the men arrested in the case dealt exclusively with the fourth, John A. Walker Jr., and did not know others were involved.

If that is true, the specialists said, it might make it more difficult to prove a conspiracy if they were tried together.

Also today, the Senate narrowly defeated an attempt by Senator Robert C. Byrd, the minority leader, to create a National Commission on Espionage and Security to review American counterintelligence efforts in the wake of the Walker case.

Of the four charged with espionage, John Walker and his son Michael are to be tried in Baltimore; his older brother Arthur in Norfolk, Va., and the man described as his closest friend, Jerry A. Whitworth, in San Francisco. All four have pleaded not guilty. Michael Walker was on active duty with the Navy while the other three were retired.

### 'Strain on the System'

The decision to prosecute in three cities is expected to compound problems for the department. "To do this with several cases would put substantial additional strain on the system," said Philip B. Heymann, a professor at the Harvard Law School who once directed the Justice Department's criminal division.

John Walker has been described by prosecutors as the ringleader of the espionage operation. Law-enforcement officials have hinted that they believed some of those accused did not know that anyone other than John Walker was involved.

If that were true, Mr. Heymann said, it might be difficult to try the four men together.

The decision to prosecute in different cities will probably make trial preparation more difficult, he said, since a large number of prosecutors will have to be trained in the handling of classified documents that would be used as evidence.

The intelligence agencies, he said, often wish to keep secret documents secret, even if that means jeopardizing a

prosecution.

In the Senate, the amendment to create the espionage commission was defeated, 50 to 48, after Republican senators said its work would conflict with the duties of the intelligence committees in the Senate and House.

Senator Byrd, Democrat of West Virginia, wanted the commission to conduct an 18-month investigation of American counterintelligence efforts. He said he had discussed the idea with

several former Government leaders, including former Presidents Jimmy Carter and Richard M. Nixon.

Senator Dave Durenberger, Republican of Minnesota, the chairman of the Senate Select Committee on Intelligence, assailed the proposal, saying that "some of the great mistakes in the past" have been made by commissions "without any responsibility to anybody."